

Young / Sommer LLC

ATTORNEYS AT LAW

EXECUTIVE WOODS, FIVE PALISADES DRIVE, ALBANY, NY 12205

Phone: 518-438-9907 • Fax: 518-438-9914

www.youngsommer.com

Allyssa T. Moody, Registered Paralegal

Writer's Telephone Extension: 253

amood@youngsommer.com

March 29, 2021

Email: calderon.wanda@epa.gov

Records Access Officer

Attn: Wanda Calderon

United States Environmental Protection Agency

US EPA Region 2

290 Broadway

New York, New York 10007-1866

RE: FOIA EPA R2 2021 003343

Universal Waste, Inc. - EPA ID# NYD002252567

-and-

Utica Alloys, Inc. - EPA ID# NYD002252591

-and-

Universal Empire – EPA ID# NYD982725343

-and-

ELG Utica Alloys Inc. – EPA ID# NYR000214510

Dear Ms. Calderon:

This is a follow-up to your correspondence of 3/26/2021 [copy attached] requesting that we provide more detail to our FOIA request of 3/25/2021 [copy attached]. Pursuant to the Freedom of Information Act ("FOIA") 5 U.S.C. § 552, and the U.S. Environmental Protection Agency's ("USEPA") implementing regulations, 40 C.F.R. Part 2, we requested that USEPA make available for public inspection in an electronic format, if possible, documents related to the **above referenced EPA site identification numbers**, and also identified the location of the EPA ID# Sites as **Leland & Wurz Aves and 91 Wurz Ave, in the City of Utica**, Oneida County, New York. We also identified the Sites as **Utica Alloys, Inc.; Universal Waste, Inc.; ELG Utica Alloys Inc. and Universal Empire**.

The time-period of this request is 1977 through 2015. The EPA ID#s were assigned to properties on which releases of hazardous substances are alleged to have occurred. As such, it may be that your efforts should first focus on the Superfund branch and the RCRA branch. It may be that the TSCA branch has files if PCBs above 50 ppm were noted by the USEPA.

Let me provide an unambiguous clarification that **this FOIA request does not ask that USEPA create records, answer questions, or attempt to interpret the request.** We also do not request the production of confidential or privileged documents, other than being advised that documents are being withheld based on confidentiality or privilege.

USEPA assigned EPA Site #s to the locations. As such, **the first place to determine whether there are documents about the Sites is by determining whether there are files with those EPA Site #s.** Obviously, we cannot provide you with authors, specific dates, or subject matter since we don't have the documents; we are asking EPA for the documents.

To the extent you need subject matter, the subject matter would be about environmental contamination at the properties to which USEPA assigned the numbers set forth above. The contamination likely included hazardous waste or hazardous substances; perhaps chemicals such as solvents and/or PCBs. Some names of some people possibly involved had names like Jiampietro [owner or operator], Sweredoski [NYSDEC], Erickson [NYSDEC]; Drabicki [NYSDEC]; Maybe George Pavlou's name, or others in his USEPA division were involved. But we are not limiting the request only to those names. Specifically, we are asking for documents associated with the EPA ID#'s above. And in those files, we would like to have produced or available for inspection the following specific group of documents involving the USEPA Site #'s set forth above. In other words, these Site numbers, and then the type of documents described below that are in these Site number files:

Universal Waste, Inc. - EPA ID# NYD002252567

-and-

Utica Alloys, Inc. - EPA ID# NYD002252591

-and

Universal Empire – EPA ID# NYD982725343

-and-

ELG Utica Alloys Inc. – EPA ID# NYR000214510:

- i. correspondence with **any** site owners and operators;
- ii. correspondence with New York State Department of Environmental Conservation;
- iii. any environmental or investigation site reports;
- iv. any site assessment documents; any decision documents (e.g. any remedial site assessment decisions, NPL listing decisions, etc.);
- v. any correspondence with environmental and/or technical consultants;
- vi. any correspondence with private parties and/or their counsel concerning the sites;
- vii. any correspondence with government agencies or personnel, whether at the local, county, state, or federal level concerning the sites;

- viii. any sampling data;
- ix. any access agreements and/or correspondence related thereto;
- x. any historic information or data regarding prior response actions and/or site activities;
- xi. any administrative orders, agreements, or decrees; and
- xii. any photographs.

Government agencies in the above likely include New York State Department of Environmental Conservation (NYSDEC), New York State Department of Health (NYSDOH), United States Environmental Protection Agency (USEPA), and Oneida County. Government personnel mean any persons working in or for the government.

Environmental and/or Technical consultants mean consultants hired to investigate or remediate contamination in the environment. Environment refers to soil, water or air.

Administrative Orders mean decrees or agreements with PRPs (potentially responsible parties).

Please also note that the above EPA ID sites are referred to by the **New York State Department of Environmental Conservation (NYSDEC) as Universal Waste Site Registry Site #633009, and Utica Alloys, Inc. Registry Site #633047, with an address that has been referred to as Leland & Wurz Ave.** You may have to ask your Superfund Branch or ask Walter Mugdan, Jim Doyle, or Eric Schaaf where USEPA Region 2 keeps records involving NYSDEC Inactive Hazardous Waste Disposal Site records that also have USEPA ID#s.

Because we do not work for USEPA, we cannot tell you where USEPA keeps its files, or how it keeps its file or who keeps its files. This request involves properties that USEPA assigned identification numbers. Are you not able to find those identification numbers?

For the purpose of this FOIA request, the term “documents” shall be interpreted expansively and shall mean and include, without limitation, any written, typed, recorded, transcribed, printed, taped, photographic, computer or graphic matter or materials, including without limitation, memoranda, reports, applications, requests, correspondence, communications, electronic mail messages, notes, letters, studies, statements, budgets, working papers, agendas, attendance sheets, minutes, analyses, etc. within the custody, possession or control of USEPA. USEPA’s custody, possession or control of records is expansive and includes records that may be in the possession of USEPA’s consultants, contractors or other agents working on the USEPA’s behalf.

As you know, USEPA has twenty (20) working days to respond to this request. If materials requested are deemed privileged or exempt from public inspection, please identify which records fall in that category and the reasons for exemption.

Thank you for your assistance and attention to this matter.

Very truly yours,

/s/ Allyssa T. Moody

Allyssa T. Moody, RP[®]
PACE Registered Paralegal[®]

Enclosures

cc via email: Kristin Carter Rowe, Esq.
Dean Sommer, Esq.

Young / Sommer LLC

ATTORNEYS AT LAW

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www.youngsommer.com

Allyssa T. Moody, Registered Paralegal

Writer's Telephone Extension: 253

amood@youngsommer.com

March 25, 2021

VIA FOIAonline

Records Access Officer

United States Environmental Protection Agency

US EPA Region 2

290 Broadway

New York, New York 10007-1866

RE: Freedom of Information Act ("FOIA") Request:

Universal Waste, Inc. - EPA ID# NYD002252567

-and-

Utica Alloys, Inc. - EPA ID# NYD002252591

-and-

Universal Empire – EPA ID# NYD982725343

-and-

ELG Utica Alloys Inc. – EPA ID# NYR000214510

Dear Records Access Officer:

Pursuant to the Freedom of Information Act ("FOIA") 5 U.S.C. § 552, and the U.S. Environmental Protection Agency's ("USEPA") implementing regulations, 40 C.F.R. Part 2, it is hereby requested that you make available for public inspection in an electronic format, if possible, the following documents related to the above referenced EPA sites, located on Leland & Wurz Aves and 91 Wurz Ave, in the City of Utica, Oneida County, New York including (without limitation):

- i. correspondence with any site owners and operators;
- ii. correspondence with New York State Department of Environmental Conservation;
- iii. any environmental or investigation site reports;
- iv. any site assessment documents; any decision documents (e.g. any remedial site assessment decisions, NPL listing decisions, etc.);

- v. any correspondence with environmental and/or technical consultants;
- vi. any correspondence with private parties and/or their counsel concerning the sites;
- vii. any correspondence with government agencies or personnel, whether at the local, county, state, or federal level concerning the sites,
- viii. any sampling data;
- ix. any access agreements and/or correspondence related thereto;
- x. any historic information or data regarding prior response actions and/or site activities;
- xi. any administrative orders, agreements, or decrees; and
- xii. any photographs.

Please note that the above EPA sites are referred to by the New York State Department of Environmental Conservation (NYSDEC) as Universal Waste Site Registry Site #633009, and Utica Alloys, Inc. Registry Site #633047, with an address that has been referred to as Leland & Wurz Ave.

For the purpose of this FOIA request, the term “documents” shall be interpreted expansively and shall mean and include, without limitation, any written, typed, recorded, transcribed, printed, taped, photographic, computer or graphic matter or materials, including without limitation, memoranda, reports, applications, requests, correspondence, communications, electronic mail messages, notes, letters, studies, statements, budgets, working papers, agendas, attendance sheets, minutes, analyses, etc. within the custody, possession or control of USEPA. USEPA’s custody, possession or control of records is expansive and includes records that may be in the possession of USEPA’s consultants, contractors or other agents working on the USEPA’s behalf.

As you know, USEPA has twenty (20) working days to respond to this request. If materials requested are deemed privileged or exempt from public inspection, please identify which records fall in that category and the reasons for exemption.

Thank you for your assistance and attention to this matter.

Very truly yours,

/s/ Allyssa T. Moody

Allyssa T. Moody, RP[®]
PACE Registered Paralegal[®]

Site ID	Site Name	Address	City, State
NYR000207654	NYSDEC REGION 6 - UNIVERSAL WASTE OFF-SITE NYSDEC SITE 633009	SEWAGE PLANT RD PARCEL #319.05-1-35	UTICA, NY
NYD982725343	UNIVERSAL EMPIRE	LELAND & WURZ AVE	UTICA, NY
NYD002252567	UNIVERSAL WASTE INC	LELAND & WURZ AVES	UTICA, NY

Site ID	Site Name	Address	City, State
NYD000708008	BUCKEYE TERMINALS - UTICA	37 WURZ AVE	UTICA, NY
NYD002255206	BUSINESS SERVICES CO OF UTICA	133 N GENESEE ST	UTICA, NY
NYD986960607	CLIFFORD FUEL CO - N UTICA SHELL	385 N GENESEE ST	UTICA, NY
NYR000214510	ELG UTICA ALLOYS INC	91 WURZ AVE	UTICA, NY
NYD986974103	FISHER AUTO PARTS, INC. - UTICA	327 LAFAYETTE ST	UTICA, NY
NYD002244911	FORMER TRW AERONAUTICAL SYSTEMS FACILITY	SEWARD AVE	UTICA, NY
NYD002238665	HYOSUNG USA INC - UTICA PLANT	2214 WHITESBORO ST	UTICA, NY
NYR000149963	LOWES OF UTICA NY #523	710 HORATIO ST	UTICA, NY
NYR000011999	LYONS FALLS BRIDGE UTICA NY	LYONS FALLS BRIDGE OVER MOHAWK RIVER RTE 12 OVER MOHAWK RIVER	UTICA, NY
NYD982728032	NORTH UTICA CLNRS & TAILORING	406 COVENTRY AVE	UTICA, NY
NYD987029972	NYS THRUWAY AUTHORITY - UTICA CANAL SECTION MAINTENANCE	105 N GENESEE ST	UTICA, NY
NY6180000329	US POSTAL SERVICE - UTICA VMF	100 PITCHER ST	UTICA, NY
NYD002252591	UTICA ALLOYS. INC.	LELAND & WARZ AVES	UTICA, NY
NYR000157586	UTICA CITY OF - HART STREET DEMOLITION	1102 HART ST	UTICA, NY
NYR000042002	UTICA CITY OF - POLICE STATION	1 KENNEDY PLZ	UTICA, NY
NYR000068973	UTICA CITY OF DPW GARAGE	11 WURZ AVE	UTICA, NY
NYD071602064	UTICA COLLEGE	1600 BURRSTONE ROAD	UTICA, NY
NYR000145490	UTICA CSD - SCHOOL SHOP	320 ELIZABETH ST	UTICA, NY
NYD002226934	UTICA CUTLERY CO	820 NOYES ST	UTICA, NY
NYD987004645	UTICA DOT	105 N GENESEE ST	UTICA, NY
NYD987033214	UTICA GENERAL TRUCK CO INC	5636 HORATIO ST	UTICA, NY
NYR000039420	UTICA HYDRAMATIC	408 ELIZABETH ST	UTICA, NY
NYD002249613	UTICA METAL PRODUCTS INC	1526 LINCOLN AVE	UTICA, NY
NYR000142216	UTICA POLICE DEPARTMENT	417 ORISKANY ST	UTICA, NY
NYD986965309	UTICA PRINTING & MAILING	422 LAFAYETTE ST	UTICA, NY
NYD161854013	UTICA WATER BOARD	KENNEDY PLZ BOX 345	UTICA, NY
NYR000207076	VERIZON NEW YORK INC - UTICA GARAGE	670 BOARD ST	UTICA, NY



United States Environmental Protection Agency
Region 2
290 Broadway, 26th Floor
New York, New York 10007

03/26/2021

Ms. Allyssa Moody
YOUNG/SOMMER LLC
5 PALISADES DR, STE 300
ALBANY, NY, 12205

RE: EPA-R2-2021-003343

Dear Ms. Moody,

This letter concerns the above-referenced Freedom of Information Act (FOIA) request, received by the U.S. Environmental Protection Agency (EPA) on 03/25/2021 in which you are seeking the following: Refer to FOIA request.

EPA has reviewed the above-referenced FOIA request. After careful review of your request, we determined that your request did not describe the records which you are seeking in a way that will permit EPA employees to identify and locate them. EPA's FOIA regulations state:

"Whenever possible, your request should include specific information about each record sought, such as the date, title or name, author, recipient, and subject matter. If known, you should include any file designations or descriptions for the records that you want. The more specific you are about the records or type of records that you want, the more likely EPA will be able to identify and locate records responsive to your request." 40C.F.R.§2.102(c).

The FOIA does not require an agency to create new records, answer questions posed by requesters, or attempt to interpret a request that does not identify reasonably described records. EPA would like to give you the opportunity to discuss and modify your request so that we may process it. Please respond to this letter providing the additional information below by email to calderon.wanda@epa.gov. If you would like to discuss your request, you may contact me at 212-637-3668.

* date range

* correspondence will also need to be specific (i.e. hardcopies, emails, internal/external, note internal emails fall under complex processing and subject to privilege, who are the custodians and/or will you narrow it to subject matter experts in RCRA/Superfund?, etc.)

Please reply within 20 calendar days from the date of this email. If we do not hear back from you, EPA may issue a final determination to close out your request. Please note that you are not prohibited from submitting additional Freedom of Information Act requests in the future. For more information, please visit our website at: <https://www.epa.gov/foia>.

If you need any further assistance or would like to discuss any aspect of your request, you may seek assistance from EPA's FOIA Public Liaison at hq.foia@epa.gov or call (202) 566-1667. You may also seek assistance from the Office of Government Information Services (OGIS). You may contact OGIS in any of the following ways: by mail, Office of Government Information Services, National Archives and Records Administration, 8601 Adelphi Road, College Park, MD 20740-6001; email: ogis@nara.gov; telephone: (202) 741-5770 or (877) 684-6448; or fax: (202) 741-5769. We look forward to your prompt reply.

Sincerely,

Wanda Calderon
Government Information Specialist
Office of Regional Counsel
EPA Region 2 FOIA Program (RFP)
212-637-3668
www.epa.gov/foia